

questions and answers set forth above are clear and unambiguous.<sup>810</sup> Moreover, given the well-publicized goal of the Senate Committee to determine what Babbitt specifically said in his conversation with Eckstein, Babbitt cannot claim to have failed to understand the intended meaning of the questions posed. Under such circumstances, that evidence cures any ambiguity in the question for purposes of a charge of perjury.<sup>811</sup>

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<sup>810</sup>*Cf. United States v. Chapin*, 515 F.2d 1274, 1279 (D.C. Cir. 1975) (stating *in dictum* that some questions may be so vague as to prevent the government from charging perjury based on the defendant's answer, but mere vagueness is insufficient to establish defense to perjury given that ambiguity can be found in almost any question). The testimony set forth above is only part of the entire record of Secretary Babbitt's statements on this subject. Other questions, however, were arguably ambiguous. Given the availability of unambiguous testimony, we did not evaluate potential perjury charges on Secretary Babbitt's other testimony.

<sup>811</sup>*See United States v. Milton*, 8 F.3d 39, 45-46 (D.C. Cir. 1994) (holding, in false statements case, that meaning defendant attributed to ambiguity is decision for jury); *United States v. Farmer*, 137 F.3d 1265, 1269-70 (10th Cir. 1998) (where prosecutor presents evidence as to how defendant understood question, it is for jury to resolve); *United States v. Swindall*, 971 F.2d 1531, 1553-54 (11th Cir. 1992) (same); *United States v. Adi*, 759 F.2d 404, 410 (5th Cir. 1985) (if answer is sufficiently explicit, question may serve as predicate for perjury charge); *United States v. Sampol*, 636 F.2d 621, 655 (D.C. Cir. 1980) (jury's province to decide construction of question by defendant); *United States v. Slawik*, 548 F.2d 75, 86 (3rd Cir. 1977) (where jury can reasonably determine which meaning defendant attributed to question, case should go to jury); *United States v. Haldeman*, 559 F.2d 31, 103-04 (D.C. Cir. 1976) (upholding trial court's refusal to instruct jury that defendant could not be convicted for perjury based on statement reasonably subject to more than one interpretation); *Chapin*, 515 F.2d at 1280-82 (jury may determine how defendant construed question and whether defendant answered truthfully). Compare *United States v. Manapat*, 928 F.2d 1097, 1098-99 (11th Cir. 1991) (where defendant checked "no" beside fundamentally ambiguous questions on an application form, no perjury charges would lie because it was impossible for jury to determine whether defendant's allegedly false answer was intentional or inadvertent).